

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

EARL PRYOR, INDIVIDUALLY AND §
AS NEXT FRIEND TO STEPHANIE §
PRYOR, AN INCAPACITATED ADULT; §
WESLEY CAIN AS NEXT FRIEND TO §
L.C. AND L.C., MINOR CHILDREN, §

Plaintiffs, §

VS. §

CIVIL ACTION NO. _____

ARTIC CAT, INC., §

Defendant. §

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES JUDGE OF SAID COURT:

COMES NOW, EARL PRYOR, INDIVIDUALLY AND AS NEXT FRIEND TO STEPHANIE PRYOR, AN INCAPACITATED ADULT; WESLEY CAIN AS NEXT FRIEND TO L.C. AND L.C., MINOR CHILDREN, (hereinafter referred to as "Plaintiffs"), and respectfully files this Original Complaint against ARTIC CAT, INC. (hereinafter referred to as "Defendant"), and in support hereof would state and show the following:

A. Parties

1. Plaintiff Earl Pryor is the biological father and Guardian of Stephanie Pryor. Plaintiffs reside in and are citizens of Tyler, Texas.

2. Plaintiffs Wesley Cain and Stephanie Pryor are the biological parents of L.C. and L.C., minor children. Wesley Cain resides in and is a citizen of Whitehouse, Texas.

3. Defendant ARTIC CAT, INC. is a foreign corporation doing business in Texas, and service of process upon this Defendant may be had by serving its Chief Executive Officer, Claude Jordon at 505 North Highway 169, Suite 1000, Plymouth, MN 55441.

B. Jurisdiction

4. This Court has jurisdiction over the lawsuit under the provisions of 28 U.S.C. Section 1332. The parties to this lawsuit are citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

C. Facts

5. On or about September 23, 2012, Stephanie Pryor was operating a 2009 Arctic Cat 550 ATV(VIN#4UF09ATV89T215373) on private property located at 12398 CR 1131, Flint, Smith County, Texas. While operating the ATV in a safe and prudent manner, the ATV suddenly and unexpectedly overturned and landed on top of Stephanie Pryor, causing her to be crushed, pinned down and trapped underneath the ATV. The handle bars of the ATV crushed, trapped, and pinned Stephanie Pryor's neck down, causing her to be strangled and choked. Consequently, Stephanie Pryor was without oxygen to her brain for a lengthy period of time and allowed her sustain severe, catastrophic, and permanent injuries and damages.

D. Cause(s) Of Action As To Defendant Artic Cat, Inc.

6. It was entirely foreseeable to and well-known by the Defendant that accidents and incidents involving its product, such as occurred herein, would on occasion take place during the normal and ordinary use of said product.

7. The injuries and damages complained of herein occurred because the product in question was not reasonably crashworthy, and was not reasonably fit for

unintended, but clearly foreseeable, accidents. The product in question was unreasonably dangerous in the event it should be involved in an incident such as occurred herein.

8. Defendant designed, manufactured, marketed, assembled, and/or tested said product in question to be unreasonably dangerous and defective within the meaning of Section 402(A) Restatement (Second) Torts in that the product was unreasonably dangerous as designed, manufactured, assembled, marketed and/or tested because of the following defects:

- a. the ATV is unstable;
- b. the ATV has poor handling characteristics;
- c. the ATV's steer response is too long;
- d. the ATV is prone to experience severe under steer;
- e. the ATV is prone to experience severe over steer;
- f. the ATV's suspension and tuning lead to loss of control handling and stability;
- g. the ATV was not tested properly;
- h. the ATV had inadequate engineering analysis.

9. Defendant was negligent in the design, manufacture, assembly, marketing, and/or testing of the product in question.

10. The foregoing acts and/or omissions of Defendant were a producing and/or proximate cause of the Plaintiffs' damages.

11. The foregoing acts and/or omissions of Defendant were a producing and/or proximate cause of Stephanie Pryor's severe injuries.

E. Damages To Plaintiffs

12. As a result of the acts and/or omissions of Defendant, Plaintiff Stephanie Pryor has endured pain and suffering, extreme emotional distress, mental anguish, impairment, and disfigurement, loss of consortium and interference with her daily activities and a reduced capacity to enjoy life as a result of her injuries.

13. As a result of the acts and/or omissions of Defendant, Plaintiff, Stephanie Pryor has become obligated to pay extensive medical expenses.

14. As a result of the acts and/or omissions of Defendant, Plaintiff, Stephanie Pryor has suffered a diminished earning capacity as a result of her injuries.

15. As a result of the acts and/or omissions of Defendant, Plaintiffs have endured pain and suffering, extreme emotional distress, mental anguish and loss of consortium in the past and in all likelihood will into the future as a result of the injuries to Stephanie Pryor.

16. The above and foregoing acts and/or omissions of Defendant, resulting in the serious injuries and damages to Plaintiffs, have caused actual damages in an amount within the minimum jurisdictional limits of this Court.

F. Prayer

17. For the reasons presented herein, Plaintiffs pray that Defendant be cited to appear and answer, and that upon a final trial of this cause, Plaintiffs recover judgment against Defendant for:

- a. actual damages;
- b. prejudgment and post-judgment interest beginning September 23, 2012;
- c. costs of suit; and
- d. all other relief the Court deems proper.

Respectfully submitted,

The TRACY firm

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